



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

ឯកសារដើម

ORIGINAL/ORIGINAL

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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

26 January 2016

Trial Day 363

Before the Judges: NIL Nonn, Presiding
Claudia FENZ
Jean-Marc LAVERGNE
YA Sokhan
THOU Mony
Martin KAROPKIN (Reserve)
YOU Ottara (Absent)

The Accused: NUON Chea
KHIEU Samphan

Lawyers for the Accused:
Victor KOPPE
LIV Sovanna
SON Arun
Anta GUISSSE
KONG Sam Onn

Trial Chamber Greffiers/Legal Officers:
EM Hoy
Niccolo PONS

Lawyers for the Civil Parties:
Marie GUIRAUD
LOR Chunthy
PICH Ang
TY Srinna
VEN Pov

For the Office of the Co-Prosecutors:
Vincent DE WILDE D'ESTMAEL
SONG Chorvoin

For Court Management Section:
UCH Arun

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. DE WILDE D'ESTMAEL	French
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Mr. KONG Sam Onn	Khmer
Mr. KOPPE	English
Judge LAVERGNE	French
The President (NIL Nonn)	Khmer
Mr. PRUM Sarat (2-TCW-1009)	Khmer

1 P R O C E E D I N G S

2 (Court opens at 0922H)

3 MR. PRESIDENT:

4 Please be seated.

5 On behalf of the Trial Chamber, I would like to inform the
6 Parties and the public that, this morning, Khieu Samphan has
7 health issues due to hypertension, and the duty doctor examined
8 the Accused and that, in about half an hour or one hour, or so,
9 his blood pressure will become normal. And for that reason, we
10 will have a slight delay for today's proceedings. And we will
11 resume at 10.30 this morning.

12 (Court recesses from 0923H to 1031H)

13 MR. PRESIDENT:

14 Please be seated. The Court is back in session.

15 Today, the Chamber will continue hearing the witness, Prum Sarat.

16 And there is a reserve witness, 2-TCW-889.

17 Mr. Em Hoy, please make a report concerning the attendance of
18 Parties to today's proceeding.

19 [10.32.16]

20 THE GREFFIER:

21 Mr. President, for today's proceeding, all Parties to this case
22 are present.

23 Mr. Nuon Chea is present in the holding cell downstairs. He has
24 waived his right to be present in the courtroom. The waiver has
25 been delivered to the greffier.

2

1 The witness who is to conclude his testimony today is Mr. Prum
2 Sarat, and he is here together with the duty counsel.

3 Today, there is a reserve witness as well, 2-TCW-849. Witness
4 confirm -- witness confirms that, to the best of his knowledge,
5 he has no relationship, by blood or by law, to any of the two
6 accused, Nuon Chea and Khieu Samphan, or to any of the civil
7 parties admitted in this case.

8 The witness will take an oath before the Iron Club Statue this
9 morning.

10 Thank you, Mr. President.

11 [10.33.20]

12 MR. PRESIDENT:

13 Thank you, Mr. Em Hoy. The Chamber now decides on the request by
14 Nuon Chea.

15 The Chamber has received a waiver from Nuon Chea dated 26 January
16 2016, which states that, due to his health, headache, back pain,
17 he cannot sit or concentrate for long and in order to effectively
18 participate in future hearings, he requests to waive his right to
19 participate in and be present at the 26 January 2016 hearing.

20 Having seen the medical report of Nuon Chea by the duty doctor
21 for the accused at the ECCC, dated 26 January 2016, which notes
22 that Nuon Chea has back pain -- has chronic back pain he -- when
23 he sits for long and recommends that the Chamber grant him his
24 request so that he can follow the proceedings remotely from the
25 holding cell downstairs.

3

1 Based on the above information and pursuant to Rule 81.5 of the
2 ECCC Internal Rules, the Chamber grants Nuon Chea his request to
3 follow today's proceedings remotely from the holding cell
4 downstairs via audio-visual means.

5 AV Unit personnel are instructed to link the proceedings to the
6 room downstairs so that he can follow the proceedings. This
7 applies to the whole day.

8 The Chamber now gives the floor to the defence team for Mr. Nuon
9 Chea to resume his questioning.

10 You have the floor now, Counsel.

11 [10.35.01]

12 QUESTIONING BY MR. KOPPE RESUMES:

13 Thank you, Mr. President. Good morning, Your Honours. Good
14 morning, counsel. Good morning, Mr. Witness.

15 Q. Mr. Witness, before I will ask you questions about the
16 territorial waters of Democratic Kampuchea, let me briefly
17 revisit the topic that we discussed yesterday just before we
18 stopped our hearing. Yesterday, you spoke about 700 eastern
19 soldiers in Division 164. In your WRI in question and answer
20 A166, you speak about a colleague of yours who was in Division
21 164. You referred to him as Chhean, Chhean who now lives near
22 your home in Samlout.

23 Do you remember talking about Chhean, a former Division 164
24 colleague living close to Samlout?

25 MR. PRUM SARAT:

4

1 A. Chhean is now living close to my house in Samlout. He was a
2 former soldier within my company. He is now living.

3 [10.36.49]

4 Q. Was he from the east or was he from the Southwest Zone
5 originally?

6 A. He was from the east. He was from the east.

7 Q. Do you remember that, at one point in time, Chhean was sent to
8 the construction site at Kampong Chhnang airport?

9 A. Later, I met him. He told me he went to -- he had been to
10 perform his new duties at the new construction site at Kampong
11 Chhnang airport.

12 He reiterated that he regret having no contact with me since he
13 had a close relationship with me in the period. And he told me
14 that he did not know at the time where I was sent to or where he
15 was sent to when he received the new assignment.

16 [10.38.11]

17 Q. Was he just one of the 700 East Zone soldiers who were sent to
18 Kampong Chhnang, or do you know whether there were other East
19 Zone soldiers who had been sent to work at Kampong Chhnang
20 airfield?

21 A. On this issue, Chhean did not clarify that point to me. He did
22 not told me who went together with him. When I met him, he did
23 not tell me who were with him.

24 Q. And he is still alive today; correct?

25 A. He is alive now today.

1 Q. Thank you, Mr. Witness. Now let me move on to the territorial
2 sea of Democratic Kampuchea between '76 or '75 and '79.
3 Let me start with an open and general question. Do you remember
4 what would happen in those years if boats would enter the
5 territorial waters of Democratic Kampuchea or would come close to
6 one of the island, such as Poulo Wai? What would happen to the
7 people on board of those boats?

8 [10.39.53]

9 A. To my recollection, from 1975 to 1978, territorial sea water
10 of Cambodia was based on Cambodia's map and I cannot say now,
11 today, which territory was under the Democratic Kampuchea at the
12 time. Unless I had the map in hand, I could tell you the
13 territory of the country at that time.
14 I could not tell you how far the territory of seawater in
15 Cambodia reached at the time. Poulo Wai -- Kaoh Poulo Wai, Rong
16 Sanloem, Tang and Seh Islands are -- were within the territory of
17 Cambodia. And among them, Poulo Pan Song or Krachak Seh island
18 was the island which was far away from the territory.

19 Q. Thank you, Mr. Witness. Let me be more specific.
20 What would happen if boats would entered a territorial sea of
21 Democratic Kampuchea and in those boats would be people of
22 Vietnamese origin, be it refugees, be it fishermen or be it
23 soldiers?
24 Can you tell us what would happen to these people on board of
25 these boats once having entered the territorial sea of Democratic

1 Kampuchea?

2 [10.42.02]

3 A. I would like to tell the Court clearly that. At the beginning
4 of 1975, there was a hot battlefield within the territory --
5 territorial sea water between the Vietnamese and Cambodian
6 troops. Soldiers of Democratic Kampuchea, in old and new Poulo
7 Wai Islands, were arrested and placed on Kaoh Trol, or Trol
8 Island.

9 Later on, the clashes -- the clash or fighting ended. I cannot
10 recall the date when the fighting ended. What I can say is that
11 it ended in late 1975.

12 Q. Thank you for that answer.

13 Let me first focus on Vietnamese refugees -- refugees or
14 Vietnamese fishermen. If they would be on a boat and entered the
15 territorial sea, what were the instructions to do with these
16 people?

17 [10.43.34]

18 A. Regarding the fishing boats or any other kinds of boats which
19 entered the territorial sea of the military, I could not tell you
20 about the issue since I was not stationed on the islands
21 themselves. I was asked to give training at Ou Chheu Teal port,
22 so it was beyond my responsibility to be stationed on those
23 islands.

24 Q. Let -- let me see if I can assist you a bit in your memory and
25 also in the interests of time, let me turn to your statement to

7

1 DC-Cam, E3/9113, two -- two different pages. First page in
2 English ERN, 0097206 (sic); in Khmer, 00926384; no French. On
3 this particular page of your statement you said -- you were
4 talking about the Vietnamese soldiers first.

5 "We arrested and interrogated them. We released the refugees. If
6 they did not answer our questions and tried to hide their
7 identity, we would send them to our security office."

8 And a bit further on English page ERN, 00974222; Khmer, 00926399;
9 you're talking about the Vietnamese refugees or the Vietnamese
10 fishermen and then you say the following:

11 "We were instructed not to arrest the civilians. We could arrest
12 them for detailed investigation to check whether they were really
13 refugees or not. If they wanted to leave safely, we -- we could
14 let them go and we were sometimes willing to send food supplies
15 to them."

16 Does that somehow refresh your memory, Mr. Witness?

17 [10.46.05]

18 A. On this particular issue, I have told Long Dany when I was
19 interviewed in the rice field. Although this was the case, I want
20 to clarify for the Court that I gave statements to Long Dany
21 during which there was a audio recording.

22 Q. But are you confirming now in the Court what I just read out
23 to you; is that -- is that what you said and is that, indeed,
24 correct?

25 A. Yes, that is correct.

1 [10.47.04]

2 Q. Let me elaborate a bit further on this very topic and read to
3 you something another company commander of Division 164 said. His
4 name is Heang Ret; he was the acting chairman of Company 4,
5 Battalion 450.

6 In his WRI, Mr. President, that is E319/23.3.12, question and
7 answer 75, he said the following. He's talking about boats --
8 Vietnamese boats with refugees and he said and I quote:

9 "Son Sen said, 'If those Vietnamese were refugees to Thailand, we
10 should not arrest them and we should let them travel on.'" End of
11 quote.

12 Do you remember an instruction from Son Sen to Division 164 that
13 Vietnamese refugees were not to be arrested and that they should
14 be allowed to travel on?

15 [10.48.30]

16 A. It was the instructions issued to the division then those
17 instructions were from the upper echelon. I was tasked with
18 training -- giving technical training. I received no orders or
19 instruction of this particular issue and how to deal with this
20 issue. In fact, I was there and I received training, not provided
21 training. That training was assisted technically by China.

22 Q. I understand, but was it, indeed, Son Sen's explicit
23 instruction that once it was clear that the Vietnamese people in
24 those boats were not military, but refugees or fishermen, they
25 would be allowed to move on to where they were going?

1 MR. PRESIDENT:

2 Please hold on, Witness. You have the floor now, International
3 Deputy Co-Prosecutor.

4 MR. DE WILDE D'ESTMAEL:

5 I have cross checked, Mr. President, document E3319.11.3.12
6 (sic); it is the record of an interview and we disclosed it to
7 the Parties in June 2015. As a matter of fact, I don't believe
8 the Defence is asking that this document be placed before the
9 Chamber as evidentiary material, unless the Defence says the
10 contrary. We haven't done so. I don't believe this document has
11 already been admitted into evidence as an evidentiary material,
12 so may I request the Defence Counsel to clarify the matter
13 perhaps?

14 [10.50.48]

15 MS. GUISSSE:

16 Mr. President, may I take the floor because, if I remember
17 correctly, I think it is one of the documents we requested to
18 have tendered into evidence at the end of the year and it appears
19 that the Chamber did allow that document to be admitted to
20 evidence. And nobody -- no Party objected to it. It was the
21 Defence of the Khieu Samphan team or rather it was Khieu
22 Samphan's team that requested that that document be entered into
23 evidence and was done so.

24 (Judges deliberate)

25 [10.52.32]

10

1 MS. GUISSÉ:

2 This might be of some assistance to the Chamber. I have found the
3 number of the application. At least it was the 5th of January
4 2016, and the record of interview or the transcript was E1370
5 (sic) and it was at 9.12; that was when the decision was
6 rendered. E3 -- it was 61/370.1 (sic); that's the number of the
7 document, the transcript.

8 MR. PRESIDENT:

9 So it is now clear for everyone and it can be used on the basis
10 for the examination.

11 Koppe, you may resume your questioning.

12 BY MR. KOPPE:

13 Thank you, Mr. President.

14 Q. Again, I'll -- I'll repeat my question, Mr. Witness. Do you
15 know whether there was instruction from Son Sen to Division 164
16 instructing the cadres not to touch refugees -- Vietnamese
17 refugees when they would be crossing the territorial sea; in
18 other words, not to arrest them and to let them travel on?

19 [10.54.05]

20 MR. PRUM SARAT:

21 A. Based on this witness, it is true. I was a cadre in charge of
22 ships; however, I was not responsible for the arrangement of the
23 travelling of foreigners crossing the territorial sea of
24 Kampuchea. I was a part of the training.

25 Regarding the instructions and orders, they were under the

11

1 command and responsibility of those who were stationed on
2 respective islands. That may have been the case. For me, I never
3 received instruction and orders, as you said.

4 Q. Thank you, Mr. Witness. Is it correct that once it had been
5 established that the people on board were Vietnamese soldiers
6 that they then would be arrested?

7 [10.55.25]

8 A. Based on my documents or my statements, I -- that I have
9 provided, on one particular occasion, on that day, which I cannot
10 tell you the exact dates and month and year, on that day, while I
11 was receiving training and I was on the journey to the new and
12 old island and also Kaoh Tang or Tang Island, I encountered and
13 met one Kleng ethnicity person and one Vietnamese on Tang Island.
14 At that time, I did not ask them who they were; what I asked was
15 the question to the soldiers stationed on Tang Island and I asked
16 those soldiers where they were from and I was told that they were
17 Vietnamese and I was told that they were travelling -- crossing
18 the Southeastern part of the territorial sea water and they were
19 arrested last night or the night before.

20 As I said, my responsibility was to be engaged in the training.
21 And on that day, I learned, in summary, about the captured of the
22 two people. So I never poke into the business under their
23 responsibility.

24 Q. I understand. Let me move on to something that is very closely
25 related to this. In your WRI, you were asked questions about

12

1 internal and external enemies of Democratic Kampuchea. I will get
2 back to that shortly, but let me read to you another excerpt from
3 the same commander Heang Ret's (phonetic) statement or WRI. It's
4 the same document as before, Mr. President, E319/23.3.12. In
5 question and answer seven - 70, 7-0, he says the following:

6 [10.58.17]

7 Question: "You said there were two kinds of enemies, internal and
8 the external; do you think the Vietnamese fishermen were regarded
9 as the external enemy and were taken to be killed?"

10 Answer: "I do not think so. The external enemy referred to the
11 Vietnamese soldiers along the border. Regarding the seizures of
12 the Vietnamese boats, to my knowledge, the Vietnamese fishermen
13 were not regarded as the external enemy, but they had violated
14 the territorial waters of Democratic Kampuchea."

15 Mr. Witness, is that correct what Heang Ret is saying that
16 fishermen and most likely refugees were not regarded as the
17 external enemy, but that was only something applicable to
18 Vietnamese military?

19 [10.59.15]

20 A. Regarding Heang Ret's testimonies or statements, these
21 statements were true. There -- the conflict of borders between
22 Vietnam and Cambodia between 1975 and 1977 was -- was the hot
23 matter and during the time the Vietnamese refugee were travelling
24 -- passing Cambodian territorial sea water, they were not
25 considered the enemies of the Democratic Kampuchea.

13

1 Two targeted groups of people were considered enemies of the
2 Democratic Kampuchea; one was the Vietnamese troops who were
3 trying to attack and capture the territory sea of Cambodia
4 including the island. And as for the internal enemies, they were
5 those who instilled the contradiction within Kampuchea and they
6 were those who try to initiate an issue within Kampuchea.

7 [11.01.03]

8 Q. Thank you, Mr. Witness. I will -- I will get back to the
9 internal enemies shortly. Let me just read to you one very small
10 excerpt of another witness that is about the chronology, the
11 years.

12 Mr. President, that is the testimony of a Division 1, West Zone
13 deputy commander. He might be coming to testify; that's -- that's
14 why I don't mention his name. It's E319/23.3.21. In question and
15 answer 24, Mr. Witness, this witness is Division 1, the West Zone
16 commander says, and I quote: "During 19--" sorry, "From 1975 to
17 '76, these instructions were the general instructions." And now
18 it comes. "They instructed us not to seek trouble with Vietnam
19 because our country was small and Vietnam was a large country."
20 End of quote.

21 Is it correct what this witness is saying that the instruction
22 was not to seek any trouble with Vietnam in the years 1975 and
23 1976?

24 [11.02.40]

25 A. Based on this witness, it is his own statement. I do not know

14

1 how to react. I agree that usually a small country had no
2 ambition or had no power to attack and capture the bigger
3 country. It is my understanding and my own idea that I agree with
4 what he said.

5 Q. Thank you, Mr. Witness. One small question in relation to the
6 Vietnamese military or soldiers who violated the territorial
7 borders and were arrested: You said in your WRI and your DC-Cam
8 statement that they were sent to Phnom Penh to be interrogated;
9 is that correct?

10 A. If that is what I have stated in my previous statement, then
11 that is correct. Whatever I stated in my interview is based on
12 the fact of our communication via radio. It could be a short-wave
13 radio and another communication is the lined -- telephone line in
14 order to receive information. However, I personally did not
15 witness the transactions of how those people were sent.

16 [11.04.41]

17 Q. But did you know, at the time, it was S-21 or is S-21
18 something that you heard about after '79?

19 A. On the issue of S-21, I simply knew that its purpose was to
20 re-educate those who -- whose living condition was not in lined
21 with the standard or you could say those who did not follow the
22 situations. And that's what I knew, that office was established
23 to re-educate cadres or to resolve other matters within the
24 concerned units.

25 Q. I have some more questions on this, but I will move on. Mr.

15

1 Witness, in your testimony before the investigators, as I just
2 mentioned, you refer to two enemies; the external enemy and the
3 internal enemy. Is it correct that you said that the first enemy
4 of Democratic Kampuchea was Vietnam and that the second enemy was
5 the internal enemy?

6 A. That is my statement.

7 [11.06.46]

8 Q. In that same answer, that is answer 75 of your WRI, you refer
9 to study sessions or education sessions organized by the general
10 staff in Phnom Penh, chaired by Son Sen. What do you remember
11 about those education sessions chaired by Son Sen and what
12 exactly was said by him in relation to the external enemy,
13 Vietnam, and the internal enemies?

14 A. To my recollection, the policy is at that time, was about the
15 current situation of the sovereignty of Kampuchea; in particular,
16 the situations along the border. And thus, there was no
17 independence or peace along the border due to the sporadic
18 disruptions of fighting along the Khmer Kampuchea -- the Khmer
19 and Vietnam border.

20 For that reason, the policy, at the time, was that those enemies
21 of Kampuchea were in two categories; one was Vietnam and the
22 second category was the internal enemy.

23 [11.08.27]

24 Q. Let me ask you a very concrete question. The second in command
25 of Division 164, Dim -- Commander Dim; was he an internal enemy?

16

1 A. From what I knew about Dim, I personally cannot say whether he
2 was considered an internal enemy. After the division was
3 organized, his role was also in the leadership of that division.
4 I knew him in late '75, for the full year of '76, and he
5 disappeared in 1977. For that reason, I am not in a position to
6 confirm whether he was alleged as an internal enemy, but I stated
7 in my previous interview that he disappeared and I did not see
8 him since.

9 Q. Thank you, Mr. Witness. Let -- let me see if I can jog your
10 memory with some more concrete evidence as to what the internal
11 and external enemies were.

12 I would like to read, again, to you an excerpt from the same
13 company commander of Division 164, Heang Ret, question and answer
14 49 and -- and I would -- I would like to ask your reaction to
15 what he stated to the investigators.

16 [11.10.12]

17 Question: "According to the 'Revolutionary Flags' or
18 'Revolutionary Youths,' the two main intentions of Democratic
19 Kampuchea were to fight internal enemies and to fight external
20 enemies; can you clarify these points?"

21 And then he says the following, and I quote:

22 "Internal enemies refer to those embedded inside the ranks of the
23 Party. They talked about the history of the Communist Party of
24 Kampuchea, the establishment of the Khmer Workers' Party led by
25 Son Ngoc Minh and the hundreds of Cambodian children sent to

17

1 study in Vietnam and sent back. Internal enemies also meant that
2 we had to struggle ideologically to build the proletarian class
3 and smash the rich class based on the poor class.

4 External enemies refer to the Vietnamese. The Vietnamese strategy
5 since the Ho Chi Minh time aimed to create an Indochina
6 Federation incorporating three countries; Vietnam, Laos, and
7 Cambodia under the control of Vietnam." End of quote.

8 Mr. Witness, is this something that you heard, as well, maybe by
9 -- maybe from Son Sen during one of those education sessions or
10 maybe you read it in a "Revolutionary Flags" or maybe you heard a
11 different -- in a different manner? Is this something that sounds
12 familiar to you?

13 [11.12.04]

14 A. From the statement on the account by Heang Ret, which is of
15 course his personal account of what happened, the policy, at the
16 time, was that the Communist Party of Kampuchea was to build the
17 stance of each cadre to be part of the proletarian class with the
18 ultimate aim to build a country to be -- to install the poor
19 peasants' class in the leading position of the country. So his
20 account is in line with the policy and the line at the time.

21 Q. So what he said is something that you heard as well. You
22 remember hearing things about the Khmer Workers' Party or the
23 Khmer Labour Party and about the Indochina -- Indochinese
24 Federation; is that correct?

25 [11.13.36]

18

1 A. That is correct because after the 1954 Geneva Convention, Ho
2 Chi Minh had an idea of encompassing the three countries;
3 Vietnam, Kampuchea, and Laos, into one Indochina Federation led
4 by Ho Chi Minh himself. So that statement is correct.

5 Q. Thank you, Mr --. Mr. Witness. Let me move on to something
6 another division colleague told investigators with DC-Cam. His
7 name is Nam Lan. I refer, Mr. President, to document
8 E319/23.3.17.1. It's translated in all three -- in two languages;
9 ERN 01170833, English; French, 00996698; Khmer, 00955619. Can I--

10 MR. PRESIDENT:

11 Witness, please hold on. And the International Lead Co-Lawyer for
12 civil parties, you have the floor.

13 [11.15.12]

14 MS. GUIRAUD:

15 Thank you, Mr. President. A short observation. We haven't found
16 this document in the list of documents that were admitted by the
17 Chamber and that fall under the 87.4 Rule; that's document
18 E319/23.1.17.1. As all documents related to this witness have not
19 been proposed or accepted by or admitted by the Chamber, so I'd
20 simply like you to verify the status of this document because, as
21 far as we're concerned, we cannot use this document unless the
22 Defence requests it in a clear way and that all Parties may react
23 to this request.

24 MR. KOPPE:

25 I'm not sure why it's a concern of the civil parties, but it --

19

1 it might be possible, Mr. President, that because of the -- the
2 changed deadline, we missed this document to put it on the
3 interface. That is possible. I just received a message. So by
4 this request to, nevertheless, read one or two excerpts from that
5 DC-Cam statement.

6 [11.16.29]

7 JUDGE FENZ:

8 Did -- did you go through the 87.4 procedures; that was the
9 issue, not -- is it admitted or requested?

10 MS. GUIRAUD:

11 If I may say, the document is on the interface, as far as we have
12 understood; however, it has not been included in an 87.4 request,
13 so that is what we're asking the Chamber to check today.

14 MR. KOPPE:

15 Can I make an oral request right now to the Chamber to have it
16 admitted?

17 (Judges deliberate)

18 [11.17.36]

19 JUDGE FENZ:

20 Can I just clarify something else, have you before your oral
21 request now, before that already made a -- a request? I want --
22 we want to avoid double decisions.

23 MR. KOPPE:

24 No, no, we haven't.

25 (Judges deliberate)

1 [11.18.12]

2 MR. PRESIDENT:

3 What about the other Parties; namely, the Co-Prosecutors, do you
4 want to react to the oral request by Defence Counsel; that is,
5 E319/23.3.17.1, in order to use it as his base for questioning
6 this witness?

7 You may proceed, Co-Prosecutor.

8 [11.18.40]

9 MR. DE WILDE D'ESTMAEL:

10 Thank you, Mr. President. While we believe that they're rules
11 that we have to respect and we have to respect the principles of
12 adversarial hearings before this Chamber, if every Party comes to
13 the hearing without having done their job; that is to say, going
14 through the procedure such as they exist and sustaining their
15 arguments in view of Rule 87.4, if the Parties come and propose
16 documents just right off the bat before this Chamber, it's --
17 everything is going to turn to chaos. So I think that a minimum
18 amount of respect to other Parties and to the Chamber is
19 necessary because you have not yet taken this decision and
20 apparently, you cannot take it now, so I think it's a bit too
21 late.

22 They should have proceeded as required. This is what we're trying
23 to do. We are also endeavouring each time to check that all the
24 documents that we want to use are documents that we have
25 submitted ahead of time to the Chamber and that have been ruled

21

1 upon, so I think all Parties should do the same.

2 [11.19.46]

3 MR. KOPPE:

4 Mr. President--

5 MR. PRESIDENT:

6 The Chamber now would like to give the floor to the Lead

7 Co-lawyers for civil parties.

8 MS. GUIRAUD:

9 Thank you, Mr. President. I think that we -- in principle, we
10 have never formally objected to the use of a document by the
11 defence teams. We understand perfectly everyone's working tempo.

12 Everyone respects the rules including the Khieu Samphan defence.
13 All that was necessary was an email. All that was necessary was
14 asking us before instead of using documents that are not -- that
15 do not fall under 87.4 request.

16 It's a question of method only because it takes an enormous
17 amount of time for the Parties to check these lists, so simply,
18 there should be a minimum amount of courtesy. That's how I should
19 call it. And simply ask for the authorization beforehand;
20 otherwise, what's the point of the interface? What's the point of
21 an adversarial debate if everyone can use documents without
22 everyone being aware of this? However, we will rely on the
23 Chamber's wisdom in that regard.

24 [11.20.55]

25 MR. PRESIDENT:

22

1 And what about the defence team for Khieu Samphan; do you wish to
2 make any observation regarding the request by Counsel Koppe for
3 that document?

4 MS. GUISSÉ:

5 I have no specific comments to make, Mr. President, given that my
6 colleague wishes to use a document that he considers to be
7 exculpatory and on that basis, I won't make any specific
8 comments.

9 I'd like to remind you that it is sometimes an issue when we
10 don't have the time to anticipate enough and prepare for our
11 examinations and that things are left aside.

12 I heard the observations of the Co-Prosecutor. If I'm not
13 mistaken, we have experienced such problems several times before
14 this Chamber; documents that had not fallen under an 87.4 request
15 and this has happened on the other side of the Bar. Simply like
16 to remind you that we are very sensitive to these requests and --
17 and he -- so we do not object that this document be used because
18 it's in the context of a cross-examination based on exculpatory
19 evidence.

20 [11.22.20]

21 MR. PRESIDENT:

22 Judge Lavergne, you have the floor.

23 JUDGE LAVERGNE:

24 Yes, thank you, Mr. President, a simple request for clarification
25 for the Nuon Chea Defence: I note that the document in question

1 is an interview conducted by DC-Cam and are there other documents
2 related to the same person? Was the same person interviewed by
3 the OCIJ, for example?

4 [11.22.54]

5 MR. KOPPE:

6 Yes, I believe two times; respectively, documents E319/23.3.17
7 and E319/23.3.18.

8 JUDGE LAVERGNE:

9 And are -- would these WRIs also be the subject of an 87.4 request?
10 Have they been tendered for that?

11 MR. KOPPE:

12 No, Judge Lavergne, the answer is no. The thing is it's all very
13 last moment. It's -- it's -- we're dealing with a -- a whole new
14 segment which wasn't investigated in the Closing Order, at all,
15 or in the investigation, so we were late; agreed, but it is
16 really not any attempt of bad faith. We just discovered it after
17 12-o'clock deadline and we will file, of course, a Rule 87
18 request, but for now, because of its obvious relevance, we would
19 like to use it with this particular witness.

20 [11.24.11]

21 JUDGE FENZ:

22 And so you put it on the interface, which is a good thing because
23 people were at least on notice, but you didn't check if it's --
24 if it had gone through an 87.4; is this basically it? Is this the
25 situation?

1 MR. KOPPE:

2 That's the situation.

3 JUDGE FENZ:

4 Yes.

5 (Judges deliberate)

6 [11.26.54]

7 MR. PRESIDENT:

8 The Chamber rejects the request by the defence counsel, Counsel
9 Koppe, in relation to document E319/23.3.17.1 at this juncture of
10 time as the Counsel fails to comply with Rule 87.4 procedures.

11 And the Chamber would like to remind all the Parties that all
12 Parties must follow the Rule 87.4 procedures and you need to make
13 such submissions before you use them to question witnesses.

14 And from what we just have a look at this document, this document
15 runs into several pages and, of course, for that reason, Counsel
16 Koppe is advised to not use this document and refer to other
17 documents when questioning this witness.

18 MR. KOPPE:

19 I fail to understand your ruling, Mr. President, nevertheless--

20 [11.28.18]

21 JUDGE FENZ:

22 Can -- can I just add something very short? I know you need the
23 time, but one decisive factor in your ruling was also that we
24 basically have to deal with all related documents at the same
25 time and that runs to, from what I hear, 60 pages which makes it

25

1 difficult to decide on the spur of the moment.

2 MR. KOPPE:

3 Having said that, Mr. President, I would like to request that the
4 Defence has some additional time to question this witness. We're
5 almost 11.30 and technically, we have used two sessions, but we
6 need to have some more time with this witness.

7 [11.29.02]

8 MR. PRESIDENT:

9 And how much time do you anticipate and you need also to consult
10 with the defence team for Khieu Samphan for your combined time so
11 that we will be able to rule on your request?

12 MS. GUISSSE:

13 Well, as far as we're concerned, I can say that a priori, we will
14 need a half an hour to cross-examine the witness given the fact
15 that a certain number of topics that we were considering were
16 already covered by my colleague from the Nuon Chea team and if
17 these issues were going to be discussed later on, I don't know
18 how many extra minutes my colleague needs for that, but it's
19 obvious that if the issues he intends to discuss in the minutes
20 given to him will reduce the time that we need, but as of now, a
21 priori speaking, we need a half an hour.

22 MR. KOPPE:

23 May I, in the light of these submissions, request that the
24 Defence granted -- is granted one full session -- one additional
25 full session?

1 MR. PRESIDENT:

2 Deputy Co-Prosecutor, you have the floor.

3 [11.30.36]

4 MR. DE WILDE D'ESTMAEL:

5 Thank you, Mr. President. In principle, we do not object to the
6 extension of the time given to the Defence given the -- the rich
7 nature of this witness' testimony.

8 This said, we'll request that we be allowed the same extension,
9 because we also have a lot of subjects to cover and would like to
10 revisit those issues, more specifically, with this Defence.

11 Yesterday, the Defence was a lot more expeditious in examining
12 the witness on the capture of Phnom Penh, but we do not object
13 for the time being, but we'll request that the Defence -- the
14 Prosecution be given the same extension of time as the Defence
15 may be given.

16 (Judges deliberate)

17 [11.33.16]

18 MR. PRESIDENT:

19 The Bench decides to grant one session for each side of the Bar;
20 that is, one session for the defence teams that is for the first
21 session this afternoon and for the Co-Prosecutors and the Lead
22 Co-Lawyers, an additional session is also granted.

23 However, it is now appropriate for our lunch break. We'll take a
24 break now and resume at 1.30 this afternoon to continue our
25 proceedings.

1 Court Officer, please assist the witness at the waiting room
2 reserved for witnesses and civil parties during the lunch break
3 and invite him, as well as the duty counsel, back into the
4 courtroom at 1.30.

5 Security personnel, you are instructed to take Khieu Samphan to
6 the waiting room downstairs and have him returned to attend the
7 proceedings this afternoon before 1.30.

8 The Court is now in recess.

9 (Court recesses from 1134H to 1332H)

10 MR. PRESIDENT:

11 Please be seated. The Chamber is now back in session.

12 And the floor is given to Defence Counsel for Nuon Chea to resume
13 questions to the witness. You may now proceed, Counsel.

14 [13.33.13]

15 BY MR. KOPPE:

16 Thank you, Mr. President. Good afternoon, Mr. Witness. I only
17 have 30 more minutes to ask you questions, so please be as brief
18 as you can in answering my questions. Before the lunch break I
19 tried to jog your memory in respect of the things that Son Sen
20 might have said to the cadres of Division 164 at those education
21 sessions. I was trying to use a document of a colleague of yours
22 in Division 164, but I will use another document instead to see
23 if I can somehow refresh your memory as to what might have been
24 said by Son Sen.

25 Mr. President, I would like to refer to document E3/13. These are

1 minutes of the meeting, of a meeting of secretaries and deputy
2 secretaries of the various divisions and independent regiments.
3 It's a document dated 9th of October 1976.

4 [13.34.41]

5 Mr. Witness, it is very clear to me that you have never been
6 present at this meeting because it was only for the commanders
7 and deputy commanders of the divisions. However, both the
8 commander of the Division 164, Meas Muth, and the deputy
9 commander, Dim, were present. That's why maybe you might be able
10 to tell us something about Son Sen's views and positions. Let me
11 start by going to English, page 00940342; Khmer, 0052406 (sic);
12 and French, 00334975. So, Son Sen is addressing the meeting just
13 before your deputy commander Dim has addressed the meeting and in
14 reaction to things that Dim has said, Son Sen says the following.
15 He is distinguishing two forms of enemies or two kinds of
16 enemies. First, he talks about the enemy to the west. He talks
17 about enemies from the west attacking islands, especially Kaoh
18 Tang and Kaoh Wai Island and that these traitorous forces belong
19 to Son Ngoc Thanh, the person that we discussed briefly
20 yesterday.

21 Q. My question, Mr. Witness, is; have you ever heard Son Sen say
22 something similar in those education sessions that there were two
23 enemies, one enemy from the west and obviously one enemy from the
24 east?

25 [13.36.56]

1 MR. PRUM SARAT:

2 A. During the study session with Son Sen at Olympic stadium in
3 Phnom Penh in 1976, at that time we talked only about the
4 organization of the army to take charge of specific locations of
5 Kampuchea. In the northeast, that included Mondolkiri,
6 Ratanakiri, and to the coastal area of Cambodia. That was what he
7 talked at that time. And later on, he talked about the enemy who
8 caused trouble to Democratic Kampuchea. The enemy included two
9 types. One was the external enemy and another one was the
10 internal enemy. And he emphasized that if the external enemy
11 caused trouble there needed to be strategic fighting in the form
12 of spying in Cambodia.

13 [13.38.59]

14 Q. But do you remember him when he was talking about external
15 enemies making it a vision in respect to, on the one hand the
16 enemy to the west and on the other hand the enemy in the east?
17 Was there a distinction in external enemies, enemies from the
18 east and enemies from the west?

19 A. I remembered what he talked about the west enemy. It's about
20 Thailand. He said that the border with the Siamese some of them
21 came into Cambodia. They crossed the border to cut woods. They
22 were not the strong enemy because they could be defeated by our
23 troops because those people were not experienced fighters. But he
24 want us to be careful with the enemy from the east because they
25 could penetrate into Cambodia and they could take the land along

1 the border with Cambodia.

2 Q. Thank you, Mr. Witness, for that clarification. Moving one
3 page in that same speech from Son Sen, English ERN, 00940343;
4 French, 00334976; and Khmer, 00652406; he said the following to
5 your two commanders or the Division 164 commanders and the
6 others, I quote:

7 "Second enemy -- second: the enemy to the east. The key plan of
8 the enemy of the east, the Vietnamese with the Soviets behind
9 them, was to attack from the inside through the traitorous forces
10 of Ya, Keo Meas, Chhouk and Chakrey. What they would have liked
11 in terms of an attack from the outside was to attack in the
12 Czechoslovakian and Angolan style, [...]" And then it goes on.
13 Mr. Witness, do you remember Son Sen speaking about the key plan
14 of Vietnam to attack Democratic Kampuchea from the inside?
15 [13.42.22]

16 A. Based on my recollection, he said that in Cambodia there are
17 -- there were spy agents which -- there were spy agents who
18 belonged to the Vietnamese and Soviets. And they were members of
19 the Soviets' so-called Warsaw Pact which was created in East
20 Germany.

21 Q. Thank you. I will move on, Mr. Witness. Six months after this
22 meeting the deputy commander of Division 164, Dim, was arrested.
23 He was arrested, I believe, the 21st of April 1977. I understand
24 that you do not know the reason for Dim's arrest, but have you
25 heard something from other cadres or maybe from Son Sen during

1 those meetings, what could have been possibly the reasons behind
2 Dim's arrest?

3 [13.44.06]

4 A. When Dim was arrested, it was in a situation which the
5 information was limited to me. I was not aware much of it and I
6 think other people were also not aware of this because cadres at
7 the lower level could not know much about the affairs of the
8 upper echelon.

9 Q. I understand. Mr. Witness, in your statement to DC-Cam, I
10 believe also in your WRI, you speak about the principle of
11 secrecy. Does that principle mean that lower cadres weren't
12 exactly informed as to reasons of arrest for higher-ranking
13 cadres?

14 A. Based on the principle of secrecy, we were not informed
15 because the principle of secrecy means only those who did it knew
16 about it. So it means I was not aware of the activities
17 responsible by other people.

18 [13.46.09]

19 Q. I understand. Thank you for that answer, Mr. Witness. Have you
20 ever heard, maybe much later, maybe even after 1979, whether Dim
21 was somehow connected to a standing committee member called Vorn
22 Vet?

23 A. As far as I know, as I have read the documents of the Court,
24 but the document was given to me on the second night and I saw
25 the names of people listed and I was told to point to which names

1 in the list that I could identify because the investigators would
2 like to know how many names, whose name I could recognize.

3 [13.47.47]

4 Q. I'm not sure if you were shown the name of Vorn Vet. Actually,
5 I don't think you were but let me move on, Mr. Witness, with the
6 last question in relation to the education sessions or meetings
7 that you and other Division 164 members had with Son Sen. Do you
8 recall whether during those meetings Son Sen ever spoke about
9 coup d'états or military coups taking place in Phnom Penh to
10 overthrow Pol Pot?

11 A. Regarding this information I received during his lecture, but
12 I was not certain about how many people were involved and what
13 were their plans, because during that political study sessions to
14 military cadres and that was what he raised at that time.

15 Q. And do you remember whether he spoke about one coup d'état or
16 maybe even four or five coup d'états which were supposed to take
17 place and were all -- and all failed?

18 A. I could not remember how many military coups were planned at
19 that time.

20 Q. Another question about Son Sen. Do you know which number,
21 which code number Son Sen used in telegrams or if telegrams were
22 sent to him which number was used to address him?

23 A. I could not remember well but at that time I knew one number
24 which my higher level authority told me that it was Number 87.

25 Q. That was actually exactly my question. I believe Son Sen was

1 called Brother 89 in telegrams. But there also seems to be a
2 Brother 87. So my question is if you know who Brother 87 was?
3 [13.51.19]

4 A. The telegraph from Number 87, as far as I can remember, is
5 from the upper echelon.

6 Q. That I assume as well, but was it maybe the deputy secretary
7 of the general staff or is it something that you don't know?

8 A. I don't know clearly about this because it's my higher
9 supervisor at the level of the regiment would know about this,
10 but he told me that it's from the upper echelon.

11 Q. Thank you, Mr. Witness. Ten more minutes for two subjects I
12 would briefly like to discuss with you. Let me go -- let me refer
13 to your DC-Cam statement. Do you recall saying something about
14 difficulties of communication between Chinese radio equipment on
15 the boats and American equipment used on land in Kampong Som?
16 [13.53.14]

17 A. I can still remember because at that time the Chinese vessels
18 -- it was difficult to communicate because the Chinese vessels
19 used a different communication system than from the mainland.

20 Q. So if original Chinese boats or vessels were patrolling the
21 seas around Poulo Wai Island for instance, was it then difficult
22 for the people on that boat to communicate with headquarters in
23 Kampong Som?

24 A. Through my personal experience, the communications system
25 employed by the headquarters in Kampong Som and the one used on

1 the Chinese vessel was different because the headquarters in
2 Kampong Som used telegrams. However, each vessel was designated a
3 different code also used through the telegram communications.

4 Q. But if a patrolling Chinese vessel would stumble upon a
5 situation in the territorial sea and they had to act immediately,
6 how would they communicate with division headquarters in Kampong
7 Som?

8 A. The Chinese vessel that I was on, and through my experience,
9 the communication system there was simple and the navigation was
10 also simple. We did not have difficulty, much difficulty in our
11 communication because the system provided by the Chinese was
12 compatible with that at the headquarters and the crew on the
13 vessel received training and also the combatants at headquarters
14 would receive a similar training so that they could communicate.
15 [13.56.10]

16 Q. Thank you. My last subject, Mr. Witness, and that is what was
17 to be done with refugees or, rather, fishermen from Thailand.
18 What was the instruction if a Thai fishing ship would enter
19 territorial waters of Democratic Kampuchea? What was the
20 instruction to do?

21 A. What I am going to say is based on the information that I
22 heard; that is the information that I did not personally
23 experience. At that stage the patrol boats were deployed,
24 however, it could not be deployed to cover the entire territorial
25 waters of Kampuchea. They received a year training for that

1 matter. However, the entire system was not fully operational.

2 [13.57.40]

3 Secondly, when the Thai fishing boats entered territorial waters
4 of Kampuchea, then the soldiers stationed on the island would
5 take action either to chase them away or to stop them encroaching
6 further into the territorial waters of Kampuchea as they actually
7 violated the sovereignty of Kampuchea and such.

8 And one day I received information through the radio
9 communications that a Thai fishing boat encroached on the
10 Kampuchean territorial waters. In fact, that was an old American
11 ship from the Lon Nol regime that is the Pae Song On (phonetic)
12 or P110 (phonetic), and with the deterrent of that boat then the
13 Thai fishing boat withdrew from the territorial waters of
14 Kampuchea.

15 Q. Thank you. I understand there were also situations that boats
16 with Thai fishermen were indeed stopped and that Thai fishermen
17 were indeed brought on land to be questioned. In your DC-Cam
18 statement you indicated that once they had been questioned the
19 problem would be solved, "diplomatically". What exactly did you
20 mean when you said that problems with Thai refugees would be
21 solved diplomatically?

22 [13.59.51]

23 MR. PRESIDENT:

24 Witness, please hold on, and the Deputy Co-Prosecutor, you have
25 the floor.

1 MR. DE WILDE D'ESTMAEL:

2 Thank you, Mr. President. We have been quite patient so far and I
3 understand that Counsel Koppe is trying to go fast, but here not
4 mentioning the sources, that is to say summing up the witness
5 statements without quoting what he said precisely, and asking him
6 to confirm this information, well, this requires that he at least
7 quote the segment involved, I think that this would be fair for
8 everyone and more appropriate.

9 [14.00.34]

10 MR. KOPPE:

11 No problem, Mr. President.

12 I was referring to E3/9113, English ERN, 00974221. I do not have
13 the Khmer.

14 MR. PRESIDENT:

15 Counsel Koppe, please repeat the ERN numbers and do it slowly
16 this time.

17 BY MR. KOPPE:

18 Of course, E3/9113, English ERN, 00974221. I will give you the
19 Khmer ERN in a minute. What he says, Mr. President, is the
20 following, "I was instructed that when there were boats coming
21 into our territorial waters, we could seize them and had to
22 report upwards to solve the problem diplomatically." A little
23 further he refers to diplomatic discussions.

24 My other source is E3/2314, English ERN, 00165983; French,
25 00768209; Khmer, 00722466 and 467. That is a newspaper report

1 talking about an agreement between Thailand and Democratic
2 Kampuchea on the return of Thai fishermen, a diplomatic pact so
3 to speak. So these are my two sources.

4 Q. So my question again, and this will be my last question, Mr.
5 Witness. What do you know about these diplomatic discussions
6 between Thailand and Democratic Kampuchea in relation to those
7 Thai fishermen that had been brought to the shore?

8 [14.02.55]

9 MR. PRUM SARAT:

10 A. The use of the word "diplomatic" is based on the information
11 that I heard. Whatever happened in the territorial waters namely
12 regarding the seizure of a Thai fishing vessel or any other
13 vessels for that matter, we had to deliver them to the
14 international relations section or department so that the matter
15 could be solved at their level, in line with the policies of the
16 Ministry of Foreign Affairs.

17 However, I did not know the details of the procedures or how the
18 resolution was carried out, nor did I hear it in person. I only
19 heard this information through my upper level at the regimental
20 level, for instance, who attended the meeting and who received
21 information from such a meeting.

22 [14.04.20]

23 Q. Have you heard whether most, maybe all, Thai fishermen were at
24 one point in time released?

25 A. What I heard is that the matter was referred to the Ministry

1 of Foreign Affairs. And how the matter was referred to was beyond
2 my knowledge.

3 MR. PRESIDENT:

4 The Deputy Co-Prosecutor, you have the floor.

5 MR. DE WILDE D'ESTMAEL:

6 Unfortunately, I wasn't able to object because I was waiting for
7 the French translation and that was a bit belated and the witness
8 already was answering. But I think that these questions are very
9 generic and they make absolutely no distinction between the
10 periods which is very important. It's important to say when he
11 says that at one point time they were liberated that's not
12 specific. So therefore, I don't believe that the witness' answers
13 can be specific. I think that certain periods should be
14 distinguished regarding the fate of the Thai fishermen.

15 [14.05.42]

16 MR. PRESIDENT:

17 And Co-Prosecutor, your time will come. If you need to clarify
18 this matter you can use your time to pursue this issue, and it
19 will come next.

20 Counsel Koppe, you may continue.

21 MR. KOPPE:

22 I will finish my questions, Mr. President. Two small things; I
23 still owed you the Khmer ERN of the particular excerpt from his
24 DC-Cam statement on solving the problem diplomatically. That is
25 00926398.

1 And my second point is maybe a matter of clarification, but my
2 request to have the DC-Cam statement that I would -- wanted to
3 refer to this morning that I would still like to have that
4 admitted into evidence. We filed an oral request or made an oral
5 request, but in my recollection this request is still pending. So
6 hopefully before next week's witness you will have an opportunity
7 to rule on that request.

8 Mr. Witness, thank you very much for your answers. Thank you, Mr.
9 President.

10 [14.07.00]

11 JUDGE FENZ:

12 Counsel, the oral request should be reasoned. I mean are you
13 referring to what you said before the break which was basically I
14 want this to be admitted as under 87.4?

15 MR. KOPPE:

16 Well, I don't want to steal time from my colleague, but the
17 relevance of this DC-Cam statement is from the first page
18 immediately obvious. It is a Division 164 commander who talks in
19 detail about what happened at the territorial sea. There are two
20 WRIs from him in the other case. It's very, very precise as to
21 command structures in 164, so there is absolutely zero reason to
22 think that this document is not in any way relevant to this
23 particular segment.

24 [14.08.01]

25 MR. PRESIDENT:

1 I would like to hand the floor now to the defence team for --
2 rather, hand the floor to the defence team for Khieu Samphan. Do
3 you wish to put the questions now to the witness or do you wish
4 to put the questions last, Defence Counsel for Khieu Samphan?

5 MS. GUISSÉ:

6 I apologize, Mr. President. I have a slight problem with my
7 headset. No, indeed, we would like to proceed, that is to say, to
8 follow the Nuon Chea defence and to speak last.

9 MR. PRESIDENT:

10 Yes, I think that is the practice and virtually determines the
11 time, location and the procedures already. And now the floor is
12 given to the Co-Prosecutors.

13 [14.09.29]

14 QUESTIONING BY MR. DE WILDE D'ESTMAEL:

15 Thank you. Good afternoon, Mr. President. Good afternoon, Your
16 Honours. Good afternoon to all Parties. Good afternoon to you,
17 Witness. I am going to put questions to you on behalf of the
18 Co-Prosecutors' Office today and tomorrow and my name is Vincent
19 de Wilde. I am going to ask you to listen to the questions
20 carefully. If you do not understand of course tell me so. There
21 is no problem about that. And I would also like to remind you
22 that you are here only as a witness to say the truth and to
23 assist the Chamber in discovering the truth. In no case you are
24 being accused of anything here.
25 So I would like, first of all, Mr. Witness, to get back or to

1 revisit a topic that was brought up yesterday by the Defence
2 Counsel, that is to say, what happened to the soldiers and
3 officials of the Lon Nol regime.

4 Q. Yesterday, you said that you left Phnom Penh to travel to
5 Kampong Som, the day Phnom Penh fell on 17 April 1975. And you
6 said that you did not harm the Lon Nol soldiers you had met along
7 the way. However, at around 3.41 in the afternoon you said that
8 later on, after your training in Kampong Som, you heard about the
9 fact that Lon Nol soldiers and officials had been executed in
10 1975 or 1976. So can you tell us what you heard regarding the
11 execution of the former officials and soldiers of the Lon Nol
12 regime?

13 [14.11.18]

14 MR. PRUM SARAT:

15 A. From what I heard, it was the information from the combatants
16 or cadres who spoke outside the meetings and not in the meetings,
17 and they spoke out of their involvement in the meetings or the
18 conference.

19 Q. Fine. And what were these cadres and combatants saying outside
20 of the meetings regarding the execution of the former Lon Nol
21 officials and soldiers? For example, where; in which locations
22 were these people executed?

23 [14.12.20]

24 A. I heard they said that the Lon Nol soldiers were killed and
25 they gave an example. For example, while they were en route they

1 came across a location where they saw two dead bodies to the west
2 of Kampong Seila. Here I refer to those forces who were walked
3 behind me. And I responded that I did not see those dead bodies
4 when I walked past. And we conversed in a form that we were
5 combatants. However I cannot recall as to who I spoke to or who
6 told me about that.

7 And this is what I can recall of what happened at the time. And
8 as you may know, it happened several years ago.

9 Q. Fine. When you left Phnom Penh the day it fell, 17 April 1975,
10 is it fair to say that you did not know what happened to the
11 high-ranking officials or servicemen of the Lon Nol army in Phnom
12 Penh?

13 A. In fact I, myself, never anticipated as to what happened next.
14 While I was en route I took the combatants with me in order to
15 reach our destination, that is Kampong Som, and we were on foot.
16 And I never anticipated that there were high-ranking soldiers or
17 ordinary Lon Nol soldiers who were killed. My remaining task at
18 the time was to only lead my group of combatants and I did not
19 receive such instructions.

20 Q. Thank you. I'm going to ask you to be a little bit shorter in
21 your answers if possible.

22 [14.15.05]

23 MR. PRESIDENT:

24 Deputy Co-Prosecutor, please hold on. Counsel Koppe, you have the
25 floor.

1 MR. KOPPE:

2 Thank you, Mr. President. An observation in a belated form of an
3 objection, but I don't believe the witness yesterday spoke about
4 execution of Lon Nol officials. I am not quite sure what he said.
5 He might have said were kill but obviously that is, in principle,
6 lawful action in a war. So there is a big difference especially
7 when he speaks about the period April '75, and talking about
8 killing as a combat action versus execution, ex-judicial
9 execution.

10 So please, Mr. Prosecutor, if you can clarify this.

11 [14.15.56]

12 BY MR. DE WILDE D'ESTMAEL:

13 Well, the question about Phnom Penh, well for that question I
14 already -- I used the word execution because Phnom Penh had
15 already been captured then so there was no war any longer. And
16 also, Counsel Koppe, when he formulated his question he said the
17 following, "Do you know if after the fall of Phnom Penh the
18 officials of Lon Nol were executed either in the second half of
19 '75 or in '76?" So the word execution was used by the Defense
20 Counsel himself. So I am going to therefore continue, Mr.
21 President.

22 Q. Witness, do you know if Meas Muth, your chief of Division 3 at
23 the time, travelled to Koh Kong with a part of his troops in the
24 days that followed 17 April 1975? Did you hear about something to
25 that effect?

1 MR. PRUM SARAT:

2 A. Based on my recollection, I did not receive such information.

3 Upon my arrival in Kampong Som, I did not receive information

4 that military commander Meas Muth went to Koh Kong. I, myself,

5 did not know his whereabouts or where he went to for any

6 particular purposes.

7 [14.17.55]

8 Q. Earlier you said that soldiers in your division were speaking

9 about executions outside of the meetings. So during the meetings

10 did Meas Muth himself or his deputies ever speak about the

11 policies of the Communist Party of Kampuchea or of the army's

12 actions vis-à-vis the officials or higher ranking servicemen of

13 the Lon Nol army?

14 A. What I can remember is that he did not mention anything about

15 the military officials or civil servants of the Lon Nol regime.

16 In the meeting he spoke about the tasks that we were assigned to

17 do, as in my case and my unit we were tasked to prepare ourselves

18 in order to be equipped with the vessels that were to be given to

19 us by the Chinese.

20 [14.19.23]

21 Q. Fine. Now, regarding Koh Kong, I would like to quote what a

22 witness said before the OCIJ, the witness in fact who testified

23 before this Chamber on 7 May 2015, in another segment of this

24 trial. I am going to put questions to you with regard to what he

25 said.

1 This is the testimony of Ek Hoeun or Ul Hoeun and this is
2 document E3/9582. And I am going to quote what he said at answer
3 89.

4 First, the question is the following: "Regarding Meas Muth, after
5 the Khmer Rouge took power in April '75, Ta Muth or Meas Muth
6 went to Koh Kong and ordered the Lon Nol soldiers to surrender
7 and turn in their weapons and then he killed them all. This is
8 what you stated in your interview with the DC-Cam. Is this true?"

9 Answer from Ul Hoeun: "Yes, that is true."

10 Question 92: "In your interview with DC-Cam it appears that you
11 said Ta Nhann" -- N-H-A-N-N -- "one of Meas Muth's lower-ranking
12 officers, walked together Lon Nol soldiers in the groves to
13 eliminate them. Is that correct?"

14 Ul Hoeun's answer: "Yes, that is true".

15 [14.21.03]

16 Question 96: "How many vehicles were used to transport these
17 soldiers?"

18 Ul Hoeun's answer: "It was Meas Muth who had to keep their
19 weapons and their equipment. They said that they were going to
20 drive the soldiers back home, but in fact they executed them in a
21 forest next to a coconut plantation and a Durian plantation."

22 Question 103: "How is it that you are aware of the execution of
23 the Lon Nol soldiers in Koh Kong?" Answer -- Ul Hoeun's answer
24 therefore: "Because they moved the troops several times and the
25 soldiers talked about what happened. This is why I got to know

1 about this. They started ordering the Lon Nol soldiers to dig
2 pits next to the trees and then executed them and dumped them in
3 the pits so that the bodies could be transformed into
4 fertilizer."

5 [14.22.02]

6 And finally, answer 109: "Meas Muth ordered the execution of all
7 government soldiers who were stationed in Koh Kong. In the
8 provinces the governors personally ordered the executions of the
9 Lon Nol soldiers." End of quote.

10 So in light of this testimony I am putting the question to you
11 again. That is to say, did you ever hear about the execution of
12 Lon Nol soldiers in Koh Kong by members of Division 103, right
13 after April 1975?

14 A. At that time my unit never received such information and
15 through the account of U1, that you just quoted I, myself, is not
16 familiar with that name or which unit he was attached to or how
17 he became to know Meas Muth, or whether he was a subordinate to
18 Meas Muth. What I can say is that I was responsible for my own
19 tasks and I did not obtain such information. My responsibility
20 was to prepare my team in order to be trained for the operation
21 of the new vessel.

22 Q. And closer to where you were, that is to say, Kampong Som,
23 which was directly under the authority of Division 3, do you know
24 what happened to the high-ranking soldiers or officials of
25 Kampong Som after the city was captured by the Khmer Rouge

1 forces?

2 [14.24.20]

3 A. As for the Kampong Som I, myself, was at my own barracks. I
4 did not have any involvement with the administrative work or on
5 how to manage the town. Even for me, I could not even enter the
6 town without a travel permit. So my knowledge was limited to what
7 I experienced or saw and I could not know everything. As I said,
8 my task was separate from theirs.

9 Q. Well, yesterday you said that Division 164, had become a
10 division depending on -- from the Centre in June 1975, whereas
11 before in your WRI, you said June 1976. So can you confirm the
12 date of June 1975, as the date when Division 164 became a
13 division of the Centre; that is to say it changed names?

14 [14.25.58]

15 A. The Division 164 was changed to division of the Centre in June
16 1975.

17 Q. And when you were transferred from the infantry to the navy,
18 that is to say, Regiment 140, did this happen during this period
19 approximately, that is to say, around June 1975 or in the middle
20 of 1975?

21 A. I was detached from Division 3 in order to be with the
22 Regiment 140 and that happened, from my recollection, in June
23 '75.

24 Q. Fine. I'd like to clarify a point here, because yesterday and
25 today I heard that you said that you had been in charge of

1 technical training within the navy. So, I'm not sure I understood
2 that very well. Did you yourself attend a technical training
3 session as a commander or as the commander of vessel 17/10 or did
4 you provide training to other people?

5 A. Allow me to clarify that. Initially, I was not part of the
6 crew on vessel 17/10. Actually, there were four vessels at the
7 time; 101, 102, 103 and 104 respectively. And I was in charge of
8 training for the crew and there was 38 crew for vessel 102, not
9 the vessel 17/10. In fact vessel 17/10 was given to us at a later
10 stage.

11 And I, myself, was not a trainer. We received training from an
12 instructor from China and he was Chinese.

13 [14.28.56]

14 Q. Fine. Now, I would like to quote what you said to DC-Cam,
15 document E3/9113, on pages 26 and 27 in English and Khmer,
16 00926361 to 62. I am going to quote this segment in English
17 because there is no French translation.

18 I quote: "The company chiefs were chosen to be trainees thereon."

19 Question: "Were the company chiefs selected to be trained?"

20 Your answer: "Yes."

21 Then at page 27, I quote: "We were trained about navigating,
22 engine repair and maintenance, weapons, electricity,
23 telecommunications, telegrams, walkie-talkies and flag signals."

24 [14.30.06]

25 And a little further down: "It was conducted at Ou Chheu Teal. It

1 was in 1976 and the training lasted for six months."

2 And in the same DC-Cam interview later, on pages 29 and 30 in
3 English, and in Khmer 00926364 up to 65, you stated as regards
4 the training in 1976 that it ended in 1976, probably in August
5 '76 and thereafter you worked permanently on the boat.

6 Can we therefore say that at the end of your training around
7 August 1976, you worked for about two years on your boat, number
8 17/10, as the captain of the boat or as a navigator, which are
9 the terms you use in your interview with DC-Cam?

10 A. After I was tasked to take charge of that boat, I was not the
11 captain of -- I was not the navigator of that vessel but I was
12 the overall captain of that vessel.

13 Q. Very well. Did you also go to China to undergo training or it
14 was other persons who went to attend such training?

15 [14.32.14]

16 A. For the technical aspects I did not go because we received
17 training from Chinese instructors at Ou Chheu Teal. Those who
18 were sent to study were sent to study on the technical aspects of
19 the torpedo boats or the patrol boats. These were the terms that
20 they used while I was there.

21 Q. Very well. And your boat, 17/10, you described it differently.
22 Was that a battle ship or a patrol boat? Can you clarify this
23 matter, please?

24 A. The vessel under my supervision was a defensive vessel.
25 However, its main task was to patrol the territorial waters of

1 Kampuchea and that was the task that involved in and in 19 --
2 from 1976 to 1978, we were tasked with missions from the upper
3 level to go on patrol in the vicinity of Kaoh Thmei Island, Kaoh
4 Seh Island which was not far from Kaoh Trol Island.

5 [14.34.17]

6 Q. In your DC-Cam interview you also talked of Kaoh Ruessei and
7 Kaoh Ta Keav. Were these also islands that were close to Kaoh
8 Thmei and Kaoh Seh close to the Cambodian coast and the
9 Vietnamese island of Kaoh Trol?

10 A. Allow me to clarify the matter to the Chamber. Regarding Kaoh
11 Ruessei and Kaoh Ta Keav Islands they were close to Ream coast
12 and that was the Ruessei -- Kaoh Ruessei. It was different from
13 the other island which is also named the same that is Kaoh
14 Ruessei which was close to Trol Island.

15 Q. Very well. Apart from those four islands, since you were also
16 sent to other zones like Kaoh Tang, Kaoh Rong Sanloem and Kaoh
17 Poulo Wai?

18 A. In fact, Kaoh Tang and Poulo Wai Chas and Poulo Wai Thmei
19 Islands, during our vessel training, we actually navigated the
20 vessels through the vicinity of these islands. That is to
21 practice what we learned through our studies. It was kind of a
22 hands-on experience.

23 Q. Very well. I would like to put some questions to you regarding
24 the structure of Division 164. And you said that Meas Muth was at
25 the head of the mission, assisted by his assistant. My question

51

1 is as regards Regiment 140, who was the head of that regiment and
2 who was your battalion commander?

3 [14.36.48]

4 A. In Regiment 140, there were two commanders. One was Saroeun
5 and another one the name Sam from the East Zone. For my battalion
6 the commander was Horn and, to my knowledge, up to now the three
7 commanders passed away.

8 Q. Did you know Saroeun's full name and, to be more direct, could
9 it be Chhim alias Samoeun which is somewhat different? Can you
10 tell me whether it's the same person or that's another person? Do
11 you know the full name of Saroeun?

12 A. I cannot recall that. However, I know his father and his
13 father's name is Khorn (phonetic) so I do not know whether he
14 used his father as his family name as Khorn (phonetic) Saouren or
15 maybe he used his grandfather's name as his family name.

16 Q. And as regards Horm (phonetic), do you know his full name?

17 [14.38.20]

18 A. The name is not Horm (phonetic) but it's Horn and I do not
19 know his family name.

20 Q. How many persons were in your marine regiment 140?

21 A. In Regiment 140 if you combined the forces from former
22 Division 3 and those forces from the East Zone, the total force
23 was 1,400.

24 Q. I am not sure you said so yesterday or today how many members
25 were in the entire Regiment 140. There were other battalions that

1 didn't come under the authority of the regiment. If you do know
2 them, can you tell us what they were?

3 A. As to the number of soldiers for each battalion I already
4 testified that there were four battalions under each regiment and
5 there were also four companies under each battalion. There were
6 about 100 forces for each company.

7 Q. Were all the regiments under Division 164, or they belonged to
8 the headquarters Division 164?

9 A. For Unit 450 it was a special unit for the division and its
10 task was to be stationed around the divisional headquarters.

11 [14.41.01]

12 Q. Was it a special unit whenever there were disciplinary
13 problems or cases of people who didn't obey orders when it had to
14 do with the arrests of soldiers of Division 164?

15 A. I did not know about their specific tasks. However, what I can
16 recall is that the unit was known as the special unit for
17 Division 3 and that designation number that is 450 remained
18 unchanged. During the war prior to 17 April 1975, it was a
19 special -- it was a combat unit in the hot battlefields. Usually
20 for tense or intensified battlefields this unit was sent.

21 Q. This will be the last question before the break, Mr.
22 President.

23 What was the regiment that was stationed, that is a division of
24 164 stationed in Kaoh Seh and Kaoh Thmei, very close to where the
25 boats were generally stationed?

1 [14.42.45]

2 A. There were another two units that I am not that sure about. It
3 could be 62 or 65. However, I can recall that there were three
4 regiments stationed on the islands; namely, Rong, Tang, Poulo Wai
5 Chas, Poulo Wai Thmei; Seh Islands.

6 And as I stated in my previous interviews, there were Regiments
7 61, 62 and 63. But I am not sure whether Regiment 63 was
8 stationed at Kaoh Thmei Island or Kaoh Seh Island. My apology for
9 that because this matter happened a long time ago.

10 MR. PRESIDENT:

11 Thank you. It is now convenient for our short break. We will take
12 a break now and resume at 3 o'clock this afternoon.

13 Court officer, please assist the witness at the waiting room
14 reserved for witnesses during the break time and invite him as
15 well as his duty counsel back into the courtroom at 3 o'clock.
16 The Court is now in recess.

17 (Court recesses from 1444H to 1503H)

18 MR. PRESIDENT:

19 Please be seated. The Chamber is back in session.

20 And the floor is given to the Co-Prosecutors to put more
21 questions to the witness. You may now proceed.

22 BY MR. DE WILDE D'ESTMAEL:

23 Thank you, Mr. President.

24 Q. So you said just before the break that Meas Muth was the head
25 of Division 164 and that Dim was his deputy until he was

1 arrested. Were there other committee members in Division 164 and
2 who were these members?

3 [15.04.35]

4 MR. PRUM SARAT:

5 A. Meas Muth was -- Meas Muth was first and the second one was
6 Dim and the third one was Chhan, but I could not recall their
7 surnames. And the fourth one was Nhan.

8 Q. And were all decisions and orders concerning operations of the
9 regiments of Division 164 as well as the assignments, were all
10 these taken in a centralized way by these four committee members
11 at HQ?

12 A. The four persons had the authority to issue orders based on
13 the particular needs and their order went to Regiment 140 and the
14 orders also came from the division level to Units 62, 63 and 64.
15 So the order came from the four persons I mentioned earlier.

16 Q. So in terms of the chain of command, you just spoke about the
17 division which would issue orders to the different regiments.
18 Were the orders and instructions then sent to a lower level by
19 the regiment and to which level? And how would you receive the
20 orders and instructions from the division?

21 A. Regarding the chain of command, the division issued orders to
22 the regiment and the regiment issued orders down to the brigade
23 and brigade down to -- rather, regiment down to the battalion and
24 battalion down to the company.

25 [15.07.21]

1 Q. And now regarding the reports that have to be drafted, did
2 these reports follow the same pathway but in the opposite
3 direction, that is to say, from bottom to top? That is to say,
4 would you report to your battalion chief who would report to the
5 regiment chief who would then report to the division chief; was
6 the way things happened?

7 A. Yes, that was the way things happened. We needed to report
8 according to the level, each level of higher authority. That was
9 the common practice at that time.

10 Q. In this hierarchical structure which was very, in fact,
11 strictly hierarchized, did the lower-ranking cadres, that is to
12 say, cadres of your level, have the right not to obey orders? Did
13 they have the right to ignore orders coming from the higher
14 levels?

15 [15.08.31]

16 A. At that time, in my capacity as the commander of the company,
17 whenever the order came from the upper level we could not avoid
18 it. We had to carry it. This was what I said from my capacity as
19 the commander of the vessel. So we had to implement according to
20 the orders. For example, as to how many days the training need to
21 take place and how many days the trainee could take rest. So
22 everything was based on the order.

23 Q. Now, regarding field operations, were there any exceptional
24 instances when you were allowed not to obey orders or did you
25 have to obey orders at all times?

1 A. Concerning the operation, we had to implement according to the
2 order. If we did not obey the order, it took place only in
3 special circumstances, for example, when the individual was sick
4 or very busy. So everyone who received the order needed to obey
5 the order. They could not avoid it.

6 Q. And when people disobeyed, what would happen to those who
7 disobeyed the orders?

8 A. In cases that there were individuals who disobeyed the order,
9 they needed to do the tasks that assigned to them and those tasks
10 were supposed that they could carry out.

11 Q. I am not sure that I got your full answer. Well, to be more
12 specific, in case of severe disobedience, for example a navy
13 chief who would refuse to stop a Vietnamese boat coming into
14 Cambodian territorial waters, what would -- in this case, would
15 this chief be sanctioned, punished?

16 [15.12.21]

17 MR. PRESIDENT:

18 Mr. Witness, please hold on. The floor is given to Counsel Kong
19 Sam Onn.

20 MR. KONG SAM ONN:

21 Mr. President, I would like to object to this question because
22 this question leads the witness to speculate. Thank you.

23 MR. DE WILDE D'ESTMAEL:

24 Not at all, Mr. President. I am simply referring to examples that
25 he might have encountered of chiefs who might have disobeyed the

1 orders. So I simply wanted, Witness, to have you tell me, what
2 were the sanctions if people disobeyed orders in Division 164?
3 [15.13.16]

4 MR. PRESIDENT:

5 Do you have any facts to establish and to show to the witness
6 that there was the case of disobedience by the military
7 commanders, and if no specific facts put to the witness, it is
8 the kind of question to draw speculation from the witness.
9 So, if you have the orders to show the witness and then it is
10 appropriate. You can ask if there were orders or how do -- how
11 did those people respect and disrespect the orders.

12 [15.14.16]

13 BY MR. D'ESTMAEL:

14 Thank you, Mr. President.

15 Q. I think I'm going to proceed otherwise. I'm going to read out
16 what the witness said in his WRI, E319/23.3.54. Question 116, the
17 following question was put to you:

18 "You attended a meeting during which you received orders aiming
19 to implement the great policies, including the cleansing of
20 enemies and of the Vietnamese. What happened to the cadres who
21 refused to obey these orders?"

22 And you answered the following at Answer 116 towards the end of
23 that answer: "If we did not obey Angkar, they would send us to
24 training or they would send us to be re-educated."

25 Question 119: "Normally, those were sent to be re-educated by

58

1 their unit, did they come back to their unit afterwards?

2 Answer -- the answer that you provided: "A. Nobody came back.

3 They all disappeared forever." End of quote.

4 The only exception you mentioned is the example of Chhoeun who

5 went to the Kampong Chhnang work site -- airport work site. So, I

6 would like to know what you mean by "re-education" because

7 earlier when we spoke about S-21, you said that it was a

8 re-education centre? So when people were sent to be re-educated,

9 did that mean that they were sent to a security centre or did

10 that mean something else?

11 [15.16.18]

12 MR. PRUM SARAT:

13 A. Based on the practices which I made mention in my documents, I

14 was referring to the offenders, those who committed offences,

15 particularly those who committed wrongs. Sending them to a far

16 location or close location did not happen within my company, but

17 it did happen in other companies.

18 I am now speaking in the circumstances that some companies sent

19 those people to the places -- the locations you mentioned, and

20 those who had been sent never returned. This is the statement in

21 my document. So I am talking only what happened outside my

22 company. And you can refer to my example earlier. I was in charge

23 of the vessels, I never encountered such events you described,

24 but it happened, it did happen in other companies or units.

25 [15.18.21]

1 Q. So, if I understood you well, you respected the orders that
2 were sent to you by your hierarchy scrupulously, so there were no
3 instances of disobedience in your case?

4 A. That is the case, it is true. I was a practical person, so
5 what I did -- what I was doing at the time reflected who I was. I
6 never implemented any orders or regulations contrasting with the
7 line.

8 A. Fine. And, on the contrary, did lower-ranking cadres such as
9 you within the companies or on the vessels, were they allowed to
10 take initiatives on their own or to take important decisions on
11 board their vessels without speaking to their superiors, without
12 knowing if their superiors would agree to that?

13 [15.19.54]

14 A. Concerning the implementation of tactical strategies, for
15 instance, when a machine did not work and we needed to repair it,
16 this kind of issue needed to make a request to regiment -- to
17 battalion, regiment and division and, after which, there would be
18 a reply -- a response from those levels. After that time, we were
19 able to repair the machine.

20 Q. Thank you. Now, I would like to turn to another topic. We will
21 speak more about what happened around the islands tomorrow. Today
22 I already spoke about this topic for a part, but before I go into
23 depth about this, I'd like to speak about the ceremonies or the
24 meetings that you might have attended in Phnom Penh during the DK
25 regime.

1 And did you travel to Phnom Penh on other occasions aside from
2 the meeting you spoke about with Son Sen, in particular during
3 major meetings of party cadres and army cadres at the Olympic
4 Stadium or at other places for celebrations such as the
5 celebration of the capture of Phnom Penh on 17 April, or maybe
6 the anniversary of the foundation of the Party on 30 September,
7 or the anniversary of the creation of the Revolutionary Army of
8 Kampuchea which was celebrated I believe in January?

9 Did you go to Phnom Penh to attend these kinds of ceremonies or
10 to take part in these major meetings?

11 A. Concerning the attendance within the anniversary of the Party
12 and of the victory on 17 April 1975, my company did not come to
13 Phnom Penh to attend that ceremony. We would hold a ceremony
14 within Kampong Som location. However, when cadres were invited by
15 the commander-in-chief, for instance, the commissioners of
16 divisions, regiments, battalions were invited, they would come to
17 attend the study sessions.

18 [15.23.22]

19 Q. Well, it appears to me that in your DC-Cam interview, you said
20 on page 91, in English and on Khmer page 00926419, that you
21 stayed in Phnom Penh in 1976 and 1977, and that you saw Pol Pot
22 give a speech, and that he gave that speech on the 17th of April.
23 So do you remember having said that?

24 A. In that document, I attended one meeting when I saw Pol Pot
25 deliver the speech in Phnom Penh. That meeting was held in

1 Olympic Stadium.

2 Q. Do you remember the year when this meeting was held for which
3 you travelled to Phnom Penh?

4 A. It may have happened in 1977.

5 [15.24.54]

6 Q. And during the DK regime, did you have the opportunity to
7 listen to Radio Phnom Penh or to read issues of "Revolutionary
8 Flag" or "Revolutionary Youth"? I think you spoke about this in
9 your interview, in fact.

10 A. I received the "Revolutionary Flags" or "Red Flags", magazines
11 on a monthly basis, and I could have access to the radio
12 broadcasts, daily.

13 Q. So therefore I must conclude that you were a party member. Is
14 that correct?

15 A. Yes, that is correct.

16 Q. Now, I would like to read out excerpts of a speech given by
17 Pol Pot which, in fact, appeared in an issue of "Revolutionary
18 Flag", and I'd like to see if you're familiar with issues he
19 brought up or with the words he used in this speech which was
20 given on 17 April 1978.

21 It's Document E3/4604, and it's therefore an excerpt of the
22 speech of comrade secretary of the CPK and a first excerpt is on
23 French page, 00520344; English, 00519833 and 34; and Khmer --
24 it's quite approximate -- but I believe it's, 00064713 or 714.

25 [15.26.55]

1 And Pol Pot, in this speech, speaks about the Vietnamese enemy
2 and this is what he says.

3 "The party requested that we crush the enemy forces as much as
4 possible and asks that we defend our own forces as much as
5 possible. There are not many of us, but we have to attack the
6 enemies who are more numerous than we are, so therefore we must
7 protect our forces to the best and crush their forces as much as
8 possible. This is our slogan which entirely relies on figures.
9 One of our men must manage to defeat 30 Vietnamese at all costs.
10 If we manage to follow this slogan, we will win. No matter the
11 number of Vietnamese people, we will triumph over them in the
12 end. In relation to any other country that would invade Cambodia,
13 if we put into practice what is said in the slogan, we will win
14 for sure. Up until today, we managed to implement what is said in
15 the slogan, that is to say, the principle of one against 30." End
16 of quote.

17 [15.28.31]

18 In this excerpt, you, maybe, heard that Pol Pot was speaking
19 about the fact that no matter the number of Vietnamese people,
20 therefore he is not making any distinction between Vietnamese
21 civilians and Vietnamese soldiers.

22 So did you hear him say that the enemy, which was Vietnam, also
23 included Vietnamese civilians?

24 MR. PRESIDENT:

25 Please hold on, Mr. Witness. You have the floor now, Mr. Koppe.

1 [15.29.11]

2 MR. KOPPE:

3 Thank you, Mr. President.

4 I object to this question. The "Revolutionary Flag" clearly

5 indicates that the speech was about Vietnamese troops. It's only

6 troops -- troops, troops and troops that he speaks about.

7 It's the exact same thing that he did in an interview in December

8 '78, with Elizabeth Becker. It's very clear in that interview

9 when he speaks about Vietnamese troops or the Vietnamese military

10 or Vietnam in general as a country. In his policy, he talks about

11 Yuon. When he talks about Vietnamese people, he talks about

12 people from Vietnam. He makes that distinction very specifically,

13 but here it's very clear he speaks about war with Vietnam and the

14 crushing of Vietnamese troops not about civilians.

15 [15.30.07]

16 MR. D'ESTMAEL:

17 Mr. President, I have read out an extract and it is very clear he

18 talks of Vietnamese inhabitants. Regardless of the vision of the

19 Defence as regards this speech, I am relying on an extract of

20 this speech. There are other extracts that I'll read out and they

21 also refer to Vietnamese inhabitants and not to Vietnamese

22 soldiers.

23 So may I request your leave to put this question to the witness?

24 MR. PRESIDENT:

25 The objection put by Victor Koppe is overruled. There is a clear

1 basis on the question put by the International Deputy
2 Co-Prosecutor.

3 Mr. Witness, you are instructed to respond to the question put by
4 the International Co-Prosecutor, and if you do not recall it you
5 can ask the Co-Prosecutor to repeat it.

6 BY MR. D'ESTMAEL:

7 Q. Do you remember having heard Pol Pot say that the enemies --
8 the Vietnamese enemy were the Vietnamese inhabitants?

9 MR. PRUM SARAT:

10 A. In accordance with the "Revolutionary Flag", there was a clear
11 policy and strict guidelines for cadres to understand, but I
12 would like to make a clear point that one of our soldiers needed
13 to smash 30 Vietnamese soldiers who committed the aggression
14 against the country.

15 This was the guidelines made mention by Comrade Pol Pot in the
16 "Revolutionary Flag". That was true. That was the true statement
17 made by him.

18 [15.32.18]

19 The enemies of the Democratic Kampuchea, during the time, had a
20 very big ambition. I did have the same understanding of comrade
21 secretary.

22 Champa was swallowed by Yuon, Kampuchea Krom, or lower part of
23 Cambodia, was swallowed by Yuon. So there was a plan to swallow
24 the country of Kampuchea as well.

25 As of now, this is still the case. I am one of Cambodian citizens

1 and I am still having the idea and understanding that there is
2 still an ambition to swallow this country.

3 [15.33.16]

4 MR. PRESIDENT:

5 Mr. Witness, please try your utmost to answer the question put to
6 you and you may only respond to the question to the limit of it.
7 Please avoid stating your personal opinions which are not
8 contributing to the ascertainment of the truth. It is your
9 objective or subjective perception, but please give your response
10 within the swear (sic) of the answer -- the question, rather.

11 MR. D'ESTMAEL:

12 Q. Thank you. At least you know in the speech it is said that it
13 is one Khmer soldier against 30 Vietnamese. In fact, they are
14 referring to the forces of Pol Pot, and it is said that 2 million
15 Cambodians would be enough to fight 60 million Vietnamese.

16 MR. KOPPE:

17 He keeps misleading you, Mr. President. He's talking about 30
18 Vietnamese troops, soldiers, one to 30. That was the amount of
19 soldiers that the Vietnamese army had more.
20 There's no more mention at all about Vietnamese civilians, so
21 he's really misleading you.

22 [15.34.56]

23 MS. GUISSÉ:

24 I would like to make a remark if you would allow me, Mr.
25 President, since in the document that my colleague has just cited

66

1 -- which I'm also reading in French -- there is a translation of
2 the word "Yuon" and it's translated into French as "The
3 Vietnamese inhabitants", whereas in the English and Khmer
4 versions, the word used is "Yuon". So we have the same problem in
5 French, but in the English and Khmer the word used is "Yuon" and
6 there is no mention of the word "Vietnamese".

7 MR. PRESIDENT:

8 You have the floor now, Counsel Kong Sam Onn.

9 [15.35.43]

10 MR. KONG SAM ONN:

11 Thank you, Mr. President. I want to have an observation on the
12 document quoted. The Khmer is the original version and in Khmer
13 document it states the document makes mention about Vietnamese
14 troops and soldiers, not civilian. So during some sentences below
15 the line which is clear about soldiers or forces, may use the
16 pronoun to replace the word instead. So, we have to be clear on
17 the number of forces, 30 Vietnamese soldiers.

18 BY MR. D'ESTMAEL:

19 Mr. President, can I proceed? I do not have the exact reference
20 but I know that if I were to look at that speech I would see the
21 exact reference; I'll find it tomorrow.

22 Q. And it is said shortly thereafter that with 2 million
23 Cambodians you would be able to defeat 60 million Vietnamese, and
24 6 million would still be left. Mr. Witness, did you hear Pol Pot
25 say that?

1 MR. PRUM SARAT:

2 A. This was a comparison of forces, of military forces, one to
3 30. It is clear in the document, and this is the document which
4 quotes the statement of comrade secretary. It was meant to
5 encourage the soldiers to use the strategies to smash them.

6 [15.37.59]

7 Q. Do I understand from your testimony that you mean that all the
8 Vietnamese inhabitants were soldiers, that is, the 60 million
9 because in the speech reference is made to 100,000 Cambodian
10 troops against a million Vietnamese? There were 60 million
11 soldiers in Vietnam, sir?

12 A. In fact, Vietnamese soldiers did not consist of 60 million and
13 Cambodian or Kampuchean soldiers consisted of 2 million. The
14 statement was meant to inspire Kampuchean soldiers to utilize and
15 prepare the lines to attack and capture the victory.

16 [15.39.15]

17 Q. Very well. I'll leave it there for that extract. There's
18 another extract further down. In French, 0052038 (sic); in
19 English, 00519836; and in Khmer, 00064717; and Pol Pot says the
20 following and I quote:

21 "Since the very beginning have the Vietnamese never defeated us.
22 They have always wanted to take over Cambodia to make it its
23 vassal since 1930."

24 And further down.

25 "In 1970, would they take Kampuchea? They could not take it. In

1 1975, were they able to take Kampuchea? They could not. And now,
2 how about the Yuon? They are no longer present in Kampuchea.

3 Formally, there were nearly 1 million of them, now there is not
4 one seed."

5 And in English, I believe reference is made to "seed". And let me
6 press on.

7 "Consequently, from the ideological standpoint we have not
8 failed." End of quote.

9 Witness, did you hear Pol Pot or other party leaders or officials
10 of Division 164 refer to the fact that measures had been taken
11 against the Vietnamese residing in Cambodia before the capture of
12 Phnom Penh on 17 April 1975?

13 [15.41.34]

14 A. From the statement you raised, and it is my understanding that
15 that was the political -- that was the political line and also
16 the ideological standpoint. And it was meant to raise the spirits
17 of soldiers to be ready in the battlefield which was possible
18 between Kampuchean soldiers and Vietnamese soldiers. That was the
19 real statement he made at the time and it was like a road map.

20 Q. Very well. Nevertheless, he referred to 1million Vietnamese
21 living in Cambodia before he came to power, and that there
22 weren't any left.

23 Now, did you hear anyone talk of measures taken against
24 Vietnamese, including the deportation of Vietnamese to Vietnam by
25 DK officials at the beginning of the regime?

1 [15.43.08]

2 MR. PRESIDENT:

3 Mr Witness, please hold on.

4 And the floor is given to Counsel Victor Koppe.

5 MR. KOPPE:

6 I object to the form of this question, Mr. President. The
7 Prosecution is leaving only one option as to why there were so
8 few Vietnamese in 1975. One of the experts -- more experts
9 actually described massive deportations of Vietnamese by Lon Nol
10 before 1975. So I think it's fair if that is also included in the
11 question to this witness.

12 [15.43.50]

13 MR. D'ESTMAEL:

14 Mr. President, I am talking of the Democratic Kampuchea regime
15 and not about what happened before. We know that, indeed, the Lon
16 Nol regime took measures against the Vietnamese, but that is not
17 the thrust of my question.

18 I am putting questions to the witness regarding measures taken by
19 the government, the government of Democratic Kampuchea vis-à-vis
20 the Vietnamese.

21 MR. PRESIDENT:

22 Objection by Counsel Victor Koppe is overruled. The question is
23 appropriate so, Mr. Witness, please answer to the question put to
24 you by the Co-Prosecutor.

25 MR. PRUM SARAT:

1 A. I could not recall the year. Regarding the deportation of the
2 Vietnamese to Vietnam, I could not remember when it happened, but
3 I knew that there was deportation of the Vietnamese once in 1973
4 and there was also fighting in that year. And another deportation
5 took place in 1975 or 1976. I could not remember well whether it
6 was 1975 or '76, but there was another deportation at that time.
7 [15.45.38]

8 MR. D'ESTMAEL:

9 Q. The Vietnamese were not deported in 1975 and 1976, were they
10 the subject of repressive measures subsequently in 1977 and 1978
11 in the country? We're talking of people who lived in Cambodia but
12 who were no longer living in Cambodia subsequently.

13 A. I cannot answer that question because it was beyond my scope
14 of responsibility.

15 MR. PRESIDENT:

16 Mr. Witness, you cannot answer that -- you chose not to answer
17 the question because according to the instruction I read earlier
18 that you have the responsibility to give answer to every
19 question. You could say yes or no to the question, but you could
20 not choose not to answer the question like this.

21 [15.47.00]

22 MR. PRUM SARAT:

23 A. My apology. Now I would like to rephrase my answer. I would
24 like to say that I did not know about that matter because I was
25 based at a different location. So that's my answer to your

1 question.

2 MR. D'ESTMAEL:

3 Q. The last extract of Pol Pot's speech is on page 00520351, in
4 French; 005 -- in English is 005198 -- or rather 938 up to 39
5 (sic); and in Khmer, 00064720; , and I quote this extract of that
6 speech.

7 "The Vietnamese again want to deceive people. They say that they
8 recognize the land border, the border of the islands, but they do
9 not recognize the maritime border. They're requesting to allow to
10 negotiate again with us on the issue of the maritime border,
11 however, the Party has decided that we must continue to fight
12 against them. We must fight until they recognize both the
13 maritime border and the air border. We must keep on fighting one
14 against 30 for them to recognize this; recognize it on paper and
15 recognize it on the world scene, and dare not approach our
16 borders again. We must keep on attacking them. In our mission, we
17 have to keep on defending. We must fight." End of quote.

18 Regarding maritime boundaries at the time, when you were serving
19 in Division 164 in Regiment 140, according to this speech by Pol
20 Pot, is it correct to say that the borders, or the boundaries
21 that have been recognized by the Cambodians, were not the same
22 recognized by the Vietnamese?

23 I am talking of territorial waters, the distance of territorial
24 waters from the islands, which was the subject of a debate
25 between the Vietnamese and the Cambodians or which were in

1 dispute between the Vietnamese and the Cambodians.

2 [15.49.55]

3 A. In fact, I was not aware of that matter because it was under
4 the authority of the upper echelon, specifically, the Democratic
5 Kampuchea government that was in charge of that matter in
6 relation to Vietnam.

7 Q. Did it happen that the Vietnamese marines arrested on boats
8 close to Cambodian islands contested the fact that they were in
9 Cambodian Territorial Waters?

10 A. Let me clarify. Based on the information I received through
11 the radio communication, that Vietnamese troops or Vietnamese
12 boats which entered Cambodian Territorial Waters, that I already
13 gave my answer to question earlier, that one day there was one
14 Vietnam and one Kleng ethnicity on the island.

15 And I asked a soldier there about the -- about where they came
16 from, and the soldier told me he came from the southeast island.

17 And I asked how far was it from Tang Island and how far was it
18 from the Vietnamese maritime boundary.

19 So I -- the soldiers who went out to arrest those people, we were
20 not sure whether they arrested from within Cambodian maritime
21 boundary or inside the Vietnam maritime boundary.

22 Q. So you are not sure that the arrests had been carried out in
23 Cambodian Territorial Waters.

24 Do you have other similar examples in which boats were arrested
25 whereas it wasn't clear in which territorial waters those boats

1 were arrested or seized?

2 [15.53.04]

3 A. Based on the information I received, and this information was
4 received through radio communication between the regiment level,
5 and the decision come from the regiment to my vessel that I
6 needed to be careful because based on the information sent to the
7 regiment that there were boats entered our maritime water.

8 It approach our islands in the southeast location, so the
9 information was communicated every day to the vessels and
10 reminding the people in charge of each vessel to be on alert
11 about this.

12 Q. To clarify matters, we heard something, someone of Kleng
13 ethnic group. Is this something in your DC-Cam? Are we talking of
14 someone of Indian nationality or Indian appearance?

15 [15.54.48]

16 A. I am not sure about this, but I would like to clarify that I
17 asked the soldier who stood next to the two persons. One was
18 Vietnamese and another one was of Kleng ethnicity, and then I
19 walked past to do my tasks, so I'm not sure whether the person of
20 Kleng ethnicity was, in fact, of Indian ethnicity or not.

21 Q. Thank you. May I request you to be more brief in answering my
22 questions because we're running out of time. When you heard Pol
23 Pot deliver his message on 17 April, you said you thought it was
24 1977. Did you also see Khieu Samphon on that occasion?

25 A. Khieu Samphon did not attend it.

1 Q. Did you see Khieu Samphon deliver another speech on another
2 occasion?

3 A. Based on my recollection, Khieu Samphon delivered speech
4 through the radio every year. I never listen to his speech
5 personally at any location, I only heard his speech through the
6 radio.

7 Q. In any case, before DC-Cam you did say that you saw him
8 delivering a speech, and at the time you referred to the speech
9 delivered by Pol Pot as well. Do you confirm that you never saw
10 him in Phnom Penh? Let me point out this page is 91, in English;
11 and in Khmer, 00926419. "I saw him on stage delivering a speech."
12 [15.57.56]

13 A. Regarding the meeting and what I give in my statement in 2007,
14 if we consider, you know, moving back across time from 2007 to
15 1975, it was a long, long time between the two periods. So I did
16 not have enough time to think about how to give the answer when I
17 was interviewed. So I could not give a clear answer at that time
18 about who was who when I was interviewed.

19 Q. When you heard Khieu Samphon speak over the radio, make a
20 speech over the radio in 1978 in particular, that is to say that,
21 after the Vietnamese had attacked Cambodia in 1977, so in 1978
22 did he speak about this war with Vietnam?
23 [15.59.35]

24 A. As far as I can remember, he made an announcement to soldiers
25 to be on alert and be ready to fight against the enemy who was

1 invading our territory. So there was an announcement. There was
2 an announcement to make the public aware of this. So it was a
3 speech from him who was senior leader of that regime.

4 Q. Fine. You also spoke about a speech he made during the
5 Mayaguez incident, during the capture of the Mayaguez vessel. Did
6 Khieu Samphan speak about the fact that the Americans had said
7 that they got lost in the Cambodian Territorial Waters. What did
8 Khieu Samphan say about that?

9 A. I can recall at that time he did not say that the American
10 ship got lost into our water, but it was from a media that
11 reported that the ship got lost into Cambodian Territorial
12 Waters.

13 So Khieu Samphan at that time said that the American have a lot
14 of modern technologies, so how come that the Americans said that
15 there vessel got lost into Cambodian water territory.

16 MR. PRESIDENT:

17 Thank you. It is now a convenient time for the adjournment.

18 The Chamber will resume its hearing tomorrow at 9 a.m. to hear
19 this witness, Prum Sarat. Please be informed.

20 Thank you, Mr. Sarat. The hearing of your testimony has not come
21 to an end yet. You are therefore invited to come and testify once
22 again tomorrow at nine.

23 And also the Chamber would like to thank Mr. Moeurn Sovann, the
24 duty counsel, and would like to invite you to come back tomorrow
25 at 9 o'clock.

1 [16.02.57]

2 Court Officer with the WESU unit, please send Mr. Sarat to the
3 place where he is staying at the moment and invite him back into
4 the courtroom tomorrow at 9 a.m.

5 Security personnel are instructed to bring Mr. Khieu Samphan and
6 Nuon Chea back to the detention facility and have them returned
7 tomorrow morning before 9 a.m.

8 The Court is now adjourned.

9 (Court adjourns at 1603H)

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